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HIGH COURT OF CHHATTISGARH AT BILASPUR

Single Bench :HON'BLE SHRI JAGDISH BHALLA, Ag. CJ.

Writ Petition (L) 6290 of 2007

Petitioners Respondents before the Labour Court	1.	M/s Ashwani Rajkumar Kumar Mining and Trading Co.Though Proprietor Jagdalpur
	2.	Shivshakti Roadways Jagdalpur, Bastar (CG) Through Proprietor
	3.	Shivshakti Motors Jagdalpur, Bastar (CG) Through Proprietor
Respondents Applicants before the Labour Court	1.	State of Chhattisgarh Through : Secretary Labour Deptt DKS Bhawan, Raipur (CG)
	2.	Presiding Officer, Labour Court Jagdalpur
	3.	President, Sambhagiya Motor Kamagar Sangh, Jagdalpur, Bastar.

Writ Petition under Article 227 of the Constitution of India

Present : Shri NK Vyas, counsel for the petitioners.
Shri Somnath Verma, counsel for respondent No.3.
Shri Yashwant Singh Thakur, Government Advocate for the State.

ORAL ORDER

(Passed on 24th October, 2007)

The application dated16.10.2007 is allowed and the affidavit is taken on record.

This petition is directed against the order dated 05.07.2007 & 04.10.2007, whereby application of the petitioners for directing respondent No.3 - Trade Union for furnishing list A & B of the claim was rejected. Thereafter, petitioners moved an application

inter alia praying that now the written statement is being filed, therefore the order dated 05.07.2007 be recalled and the written statement be taken on record which was also rejected by order dated 04.10.2007. Against these two orders petitioners approached this Court.

An Industrial dispute was raised before the State Government by respondent No.3. After examining the matter, by a reference dated 19.08.1996 the State Government referred the following questions for adjudication before the Labour Court:

> "क्या सेवा नियोजक द्वारा की गई 32 सेवा नियुक्तों (संलग्न सूची) की सेवा पृथक्कीकरण अवैध है तथा क्या सेवा नियुक्तों के स्वत्व का लाभ प्राप्त करने के हकदार है? यदि नही तो सेवा नियुक्त किस सहायता के पात्र है तथा इस संबंध में नियोजक को क्या निर्देश दिया जाना चाहिये"

The reference was registered as Case No.69/ID Act/Ref/97. The claims were filed before the Labour Court on 28.01.1998. Thereafter petitioners had ample time to file written statement, but neither written statement was filed nor any application referred hereinabove was moved for a direction to the respondents to furnish list A & B to the petitioners. However, on 22nd June 1999 petitioners moved an application seeking permission to engage a counsel and the same was rejected on the same day. Aggrieved by the said order, petitioners filed a writ petition before this Court and the same was admitted and interim relief was granted. Ultimately on 18th April 2007, the writ petition was allowed and the petitioners were given facility to engage a counsel to appear before the labour Court, with a direction to the Labour Court to consider and dispose of the matter within a period of six months. Thereafter, the case was fixed for 25th May, 2007, on the said date neither the Presiding Officer was available, nor any written statement was filed. Again, on 2nd June, 2007 situation remains same; however, on 20th June, 2007 on the request of learned counsel for the petitioner one week time was allowed to

file written statement. On 27th June, 2007 the written statement was not filed, again on the request of learned counsel for the petitioners time to file written statement was granted and the case was fixed for 05.07.2007. On 05.07.2007, the petitioners moved an application praying that the respondents be directed to furnish list A & B of the claim. It is surprising that the said prayer was not made earlier for the last several years before the Court. Even if the period of interim order between 1999 and 2007 is ignored, petitioners had ample time for moving application between 28th January 1998 and 22nd June 1999 and thereafter, after 18.04.2007, when the writ petition referred to hereinabove was decided.

However, during the discussions, it has been agreed upon between learned counsel for the parties that interest of justice will suffice in case Rs.2,000/- as cost to every workman is paid, the written statement earlier filed be allowed to read with a further condition that the petitioners will not seek any adjournment in the matter, except one.

In the above circumstances and in light of the above agreement between the parties, let Rs.64,000/- be deposited towards cost by the petitioners as there are 32 workmen before 26th October, 2007 when the date is fixed before the labour Court. Thereafter labour Court shall decide the matter in the spirit and in light of the order dated 18th April 2007. Petitioners shall pay Rs.2,000/- (Two thousand only) by Demand Draft or Bankers Cheque in the name of each and every workman or their legal heirs. It is clarified that in case some workman has left for heavenly abode, the amount of Rs.2,000/- be paid to his/her legal heirs in cash, if the legal heirs are not available, then, the said amount be deposited in the labour Court so as later on the said amount can be paid to the legal heirs. It is specifically provided that if the petitioners fail to fulfill the above conditions, then this

order would not be available to them. Petitioners are allowed to take only one adjournment in exceptional and extraordinary circumstances. In light of the above, the written statement filed by the petitioners which is already on record in the labour Court be read in their defence. With this observation, with the consent of the parties, the writ petition stands disposed of.

Sd/-
Ag. Chief Justice

padma